



Paper No. 5

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OFFICE OF PETITIONS

In re Application of
Selim S. Bencuya
Application No. 10/016,713
Filed: November 2, 2001
Attorney Docket No. CNXT-01CXT02861:

DECISION ON PETITION

This is a decision on the Petition filed March 27, 2002, which is properly considered as a petition under 37 CFR §1.53(e)(2) to accord the above-identified application a filing date of November 2, 2001, with Figures 5 through 17 as part of the original application disclosure.

Application papers in the above-identified application were filed on November 2, 2001. However, on January 30, 2002, the Initial Patent Examination Division (IPED) mailed a "Notice of Omitted Items in a Nonprovisional Application," advising applicant that a filing date had been accorded; however, Figures 5-17 described in the specification appeared to have been omitted from the application.

In reply, applicant petitions the Commissioner to consider applicant's contention that all figures were submitted with the original application filed on November 2, 2001 contrary to the findings of the Office of Initial Patent Examination (OIPE) as set forth in the formalities letter dated January 30, 2002. A copy of the eight (8) sheets of drawings containing Figures 1-17 was resubmitted on petition. In support of their contention, applicant submitted a copy of their return postcard receipt. This postcard receipt identified this application by serial number, itemized "Item ... Formal Drawings - Pages ... 8" among the enclosures, bore a United States Patent and Trademark Office receipt date-stamp of November 2, 2001, and lacked any notation of non-receipt of any item listed (but did indicate a correction to the amount of a check enclosed).

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. Applicant has shown that the application as filed on November 2, 2001, included eight (8) sheets of formal drawings. A comparison of the drawings presently accorded a filing date of November 2, 2001 and the drawings resubmitted on petition reveals that the eight sheets of drawings identified on the postcard included Figures 1-17, as alleged. Thus, the application is entitled to a filing date of November 2, 2001, with Figures 1-17 as part of the original application disclosure.

In view thereof, the petition is GRANTED.

Given the basis for granting the petition, the petition fee is being refunded as requested, by Treasury Check under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of November 2, 2001, using the application papers received in the Office on that date and the drawing sheets containing Figures 5-17 resubmitted on petition filed March 27, 2002 and indication in the records of the USPTO that eight (8) sheets of drawings were present on filing.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at 703-305-0309.



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for Patent Examination Policy